

24th February 1955] [Sri T. Purushotham]

the death of the boy and our sympathies are due to the poor parents. As there is a statutory obligation under the Indian Electricity Act to ensure all precautionary measures against electricity accidents, I bring this matter to the notice of the Hon. Ministers for necessary enquiry and redress."

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI:—“ Mr. Deputy Chairman, Sir, immediately on hearing about this, I sent for a report from the Chief Engineer for Electricity. He has said, as was mentioned by the hon. Member himself, that that post was not secured or locked properly, that this boy seemed to have put his hand into the switch box and meddled with the switches and that it must have caused electrocution. Actually the lamp post belongs to the Corporation of Madras and the Chief Engineer has suggested that it is for the Local Administration Department to call for a report from the Corporation of Madras. Anyhow, my Colleague, the Hon. the Minister for Local Administration to whom I have spoken, has asked for a report from the Madras Corporation. I am sure he will be getting a detailed report shortly.”

V.—GOVERNMENT BILL.

THE MADRAS INDEBTED AGRICULTURISTS (REPAYMENT OF DEBTS)
BILL, 1955 (L.A. BILL NO. 2 OF 1955).

* THE HON. SRI M. A. MANICKAVELU NAICKER:—“ Sir, I beg to move—

‘ That the Madras Indebted Agriculturists (Repayment of Debts) Bill, 1955 (L.A. Bill No. 2 of 1955), as passed by the Assembly, be taken into consideration.’

Sir, this is a lucky Bill in the sense that it satisfies my friend, the hon. the Deputy Leader of the Opposition in so far as it was referred to a Joint Select Committee. I say ‘lucky’ because it will get easy and quick passage in the Council to-day. The Joint Select Committee went into the provisions of the Bill in detail and made certain changes. I may now refer to some of those changes.

“ The year of test with regard to income, profession tax paid, etc., was changed from 1950–51 to 1952–53. In the original Bill, the test of property-tax or house-tax was fixed as Rs. 50 per half-year. It was changed into an annual property value of Rs. 600 per year in order to obviate the difficulty caused by the different rates of tax obtaining in the municipality and the panchayat, respectively. In the original Bill, creditors were entitled to collect their debt if the debt was Rs. 5,000 and below. This provision was deleted by the Committee. Then, provision has been made to extend the facilities in the matter of collection of debt available to co-operative societies and the Government to chit fund organisations. Then, with regard to payment of debt in instalments, the provision ‘either arrears accrued up-to-date or one-eighth of the

[Sri M. A. Manickavelu Naicker] [24th February 1955]

principal' has been changed into 'either arrears accrued and one-eighth principal or one-fourth of the total amount due, whichever is less'. The period also has been extended from three to four months. It has also been provided that the rules framed under the Act should be placed on the table of the Houses of Legislature.

"These are some of the important changes made in the Bill and the Assembly has accepted all these changes. The only change that was made in the Assembly was as regards redrafting of clauses, especially of clause 4 which makes its meaning quite clear now. Otherwise, the Assembly has accepted the Bill as was reported upon by the Joint Select Committee and the Bill is before the House for consideration."

DEPUTY CHAIRMAN:—"Motion moved—

'That the Madras Indebted Agriculturists (Repayment of Debts) Bill, 1955 (L.A. Bill No. 2 of 1955), as passed by the Assembly be taken into consideration.'

* SRI K. BALASUBRAMANYA AYYAR:—"Mr. Deputy Chairman, Sir, I have spoken so often about the various principles that have to be taken into consideration in framing a Bill of this kind that I do not want to dilate upon them now. I am conscious that the Government are anxious to see that the Bill gets through both the Houses of Legislature and receives the assent of the President in time to take effect from the 1st March. I was also a Member of the Joint Select Committee and I am glad that the Government have made their position clear in respect of two important matters. One is that the object of this Bill is not to relieve the general agricultural indebtedness in our State. Therefore, this Bill is not intended for the purpose of giving relief to agriculturists by way of scaling down debts, ripping open transactions involving excessive rates of interest. The second thing is that the Government have made it clear that the debt has to be repaid. Many members of the Select Committee were anxious that repayment of debts should be spread over many instalments. In the first place, it will take more than a year before the debtor is asked to repay and it will be practically seeing that the debt is not paid or what is paid is not appreciated by the creditor. When the debt is repaid over such a long period of years, no ordinary creditor will appreciate the payment. I am glad, therefore, that the Government have made their position clear so far as these two matters are concerned. But, in a Bill of this kind, when the Government want to give relief to the agriculturists in the matter of repayment of loans soon after the Moratorium Act ceases to be effective, there are various difficulties likely to arise on account mainly of the fact that 'agriculturist' has been defined in a particular way now. It was not so in the old Act. Now the definition is circumscribed. Therefore, a large number of claims are now released from the application of the Moratorium Act. On account of these factors, there are very many difficulties that will arise. One is anxious to see that such difficulties are removed and the wording of the definition made so clear that the courts will be

24th February 1955] [Sri K. Balasubramanya Ayyar]

really helped to give proper adjudication on matters that may come up before them. If matters become complicated, then it will take a long time for courts to adjudicate upon the various issues involved in them. Therefore, if some of us on this side of the House try to move some amendments for the purpose of making the objects of the Bill clear, it is not with a view to delaying the passage of the Bill, but with a view to seeing that the Act is placed properly on the Statute Book and that it really helps the courts in adjudicating properly upon the claims by the respective parties. We are perfectly conscious of the fact that these amendments will not be accepted chiefly for the reason that they may delay matters still further. We mean moving certain amendments only in order to see that when the rules are framed or whenever any amending legislation is undertaken by the Government in future, things may be made clear. I do not want to speak any further on the Bill at this stage. When I move my amendments, I shall dilate on them so that the points that I may make may be borne in mind by the Government for future guidance."

SRI A. GAJAPATHY NAYAGAR :—" Mr. Deputy Chairman, Sir, as was pointed out by many hon. Members and others elsewhere, this Bill does not seek to solve the question of rural indebtedness. It affects rural credit. It is a Bill whose object is said to be to give relief to agriculturists in the matter of repayment of loans.

4-10
p.m.

" The moratorium that was granted last year, and which was extended by a month expires at the end of this month. This Bill comes as a stop-gap just to give relief to the agriculturists from the creditors' filing of suits for the recovery of the amount due to them and also to enable the agriculturists to pay their dues in easy instalments. Of course, taking the time and the place, we must welcome this measure. But at the same time I must say that taking the whole picture of our country, the eternal poverty of our masses, the lack of purchasing power in our people, and the great state of penury pervading everywhere, the Government must bring in an all-pervasive measure which would do something to solve these big problems.

" This legislation is something like a piecemeal legislation which creates more difficulties and creates more problems and ends in dissatisfying everybody. Even though the Bill seeks to give relief to the persons who are agriculturists and who have incurred debts, it will end only in a kind of litigation. Therefore, Mr. Chairman, though I welcome this Bill, I would request the Government not to stop with this but to proceed and bring in an all pervasive measure which would bring real solace to the ills of our country."

* **SRI G. KRISHNAMOORTHY :—**" Mr. Deputy Chairman, Sir, the Government have brought in this measure as a continuation of the moratorium that was declared for one year. The Government have declared that their policy is to be fair both to the debtor and the creditor. The original moratorium was intended to bring

[Sri G. Krishnamoorthi] [24th February 1955]

relief to the debtor and to see that the debtor was not unduly oppressed by the creditors. Now in the present Bill as it has emerged from the Select Committee, we find that the definition of the debtor has been narrowed down to such an extent that practically speaking many agriculturists cannot get the benefit of this new Bill. It has been narrowed down to such an extent that an indebted agriculturist who owns a little over six or seven acres of wet land cannot get relief because it has been stated that a person paying a land revenue of Rs. 150 and more cannot be protected by this Bill. He is no longer an 'agriculturist' as defined in this Bill. Again an agriculturist owning about $\frac{1}{2}$ an acre and having a house besides the one in which he resides with a rental value of about Rs. 600 and above a year, cannot claim to be an agriculturist for the purposes of this Act. Such a man owning $\frac{1}{2}$ an acre and owning a house with a rental value of Rs. 600 besides the house in which he lives will be only a 'middle-class man'. Again the definition of the agriculturist has been narrowed down to such an extent that when a man owns $\frac{1}{2}$ an acre and gets a monthly income of over Rs. 150 he cannot come under the purview of this Bill. When a man owns about $\frac{1}{2}$ an acre is an indebted agriculturist getting Rs. 151 as his monthly income inclusive of allowances, he is not a rich man but only a 'middle-class man' and even for him the definition has been so narrowed down as not to benefit him. I am afraid that many of the indebted agriculturists cannot come under the definition of "agriculturist" that is now put under the Bill. So it is but right that the Government should raise the limit of exemption in all these cases.

"It is said that one assessed to profession tax on an income of over Rs. 900 per half year could no longer claim protection under this Bill. I think that should be raised to Rs. 1,800 per half year. Persons assessed to profession tax on an income of more than Rs. 900 per half year have been classified with persons paying income tax, who get Rs. 350 and above per month. (Income-tax is leviable only on those persons getting over Rs. 350 per month.) A person getting Rs. 350 and above per month has been classified similar to the person getting Rs. 150 per month by way of his profession and whose annual income will be less than Rs. 2,000. A person getting Rs. 350 and above has been classified with a person paying Rs. 150 as kist for a year. A person earning Rs. 150 a month gets Rs. 1,800 annually and a person paying Rs. 150 by way of kist gets an annual income of Rs. 2,000. These two categories of persons have been classified as coming under the category of persons paying income-tax, which is on the face of it not correct; for only persons getting more than Rs. 4,200 per year (Rs. 350 per month) could come under the category of those people who pay income-tax. Therefore it is I say that only those persons who are assessed to profession tax on an income of Rs. 1,800 and above per half year should be exempted from the purview of this Bill. Again I say that only persons who own a house with a rental value annually of Rs. 1,200 and above besides

24th February 1955] [Sri G. Krishnamoorthi]

their own residential houses should be exempted from the purview of this Bill. If these things are done then the agriculturists who own some one or two acres of land besides some small residential houses, and who come under the 'middle-class' category would be saved. Otherwise they would be oppressed by their creditors.

The Government have said that the purpose of this Bill is not to scale down debts. It is said that within four months from 1st March 1955 the debtor should pay one-eighth of the principal and the interest up to date or one-fourth of the total amount and the rest in three annual instalments. As I have said before the tendency of the human mind is to postpone things till the last moment. Suppose there is a bumper harvest in the first year then the agriculturist could save something. Then there is no provision in the Bill by way of inducement by which he could repay the whole of his debt within the end of the first year. Because of the provision of three equal annual instalments, he will pay only the portion prescribed for the first year and if in the succeeding years there is drought or something like that, he will not have money and will suffer to repay the debt. Therefore it is I submit that there should be a provision for rebate by which the agriculturist if he has a bumper harvest or a good harvest could be tempted to repay the whole of his debt within one year and four months. Otherwise if we say it should be in three annual instalments, we are giving temptation to the agriculturist to postpone the full payment by three years. Such a temptation should not be given. Fortunately we had a good season last year. I hope it will continue for some more years to come. Therefore I think we should give an inducement to the agriculturist to pay off his debt entirely whenever he realises sufficient money after a good harvest. That is what I suggested already. The rebate could be five per cent in the case of the first Rs. 1,000 and two and a half per cent in the case of the succeeding thousands. If that is so, naturally it would be an inducement to the debtor to pay off the creditor and the creditor will not consider this question as one of scaling down of debts. In the present circumstances every creditor who has lent money to a person who comes under the purview of this Bill has to be kept in suspense for three years and four months and then he has to go to Court in case payments have not been regularly paid. Are we to increase litigation? The Government are bound to give that inducement to the debtor to pay back the money when he is in a position to pay. In the first year he may have a bumper crop. For the next two years, especially in the case of dry lands, he may have to depend upon Lord Varuna for rainfall. Why should we not provide for some rebate as an inducement in the way of repayment by the debtor of the money to the creditor? I would request hon. Members of this House to just press this point, namely, that in case the debtor pays back his debt, at the end of the first year he must be eligible for five per cent rebate on the first 1,000 and $2\frac{1}{2}$ per cent for each succeeding thousand. I do not think that any creditor would object to this,

4-20
p.m.

[Sri G. Krishnamoorthi] [24th February 1955]

because he need not wait for full three years and four months, and he could invest the money properly on something else. With these words, Sir, I conclude."

* SRI C. RAJAGOPALACHARI :—“ Sir, I wish to make only a few observations having been responsible, when the last moratorium was given, for a statement that it would be only for one year. I feel it my duty to explain, being present here, that I still hold the view that it should have been only for one year, and that it is really a disturbing factor that a new Bill has been brought forward, so to say, in breach of that promise. Not that the word given by a Government must be taken for ever as unalterable, but still it appears to me that any plea should be well supported by reasons before a breach could be made of a promise of that kind. I am not opposing the Bill. I leave it to the House to judge it on its merits. But I wish to make it clear that in my humble view constant interference with contracts is not a good thing for the credit that we want to be established for contracts entered into. For several reasons there is a large amount of uncertainty in the minds of people created during the last few years. Uncertainty is not a good thing for the conduct of natural life. There are uncertainties enough in this world as things stand without adding uncertainties of the law and of the incidence of contracts to these necessary uncertainties that we have to bear with. No one can deny that by this constant interference with the normal law, as jurists would understand it, everyone has come to believe that nothing is stable or settled. We are not dealing with any temporary matter. We are dealing with a very permanent incident in life, namely, that man must borrow when money is required from others who have been able to save money to be invested in capital for the purpose of society. If, therefore, borrowing is a necessary incident of life for all time, we should be careful and hesitant before creating a state of things in which no man is sure of what the law is going to be. It does not mean that the Government have no right to interfere with contracts in any manner. For instance, from time immemorial, it is not a new feature—laws have been passed restricting the rate of interest which could be charged and also allowing Courts the discretion to deal with instances of breaches of contract according to the requirements of the particular cases. For instance there are permanent provisions—my hon. colleagues will be able to show the House—by which the Court can give in its discretion any number of instalments for repayment. I am aware that Members can say that I myself was responsible for the original Debt Relief Act in favour of the agriculturists. I am not apologetic about it, because there the only interference was with the rate of interest. The rate of interest was declared to be too much if it was above a certain maximum provided, and if a man had by way of interest paid off his debt, although the principal would still be legally outstanding, that law provided that the debt should be taken to have been cleared. I do not think that any apology is needed for that inter-

24th February 1955] [Sri C. Rajagopalachari]

ference. It does not follow from my plea for the sacredness of contract that usury must be tolerated. The Moratorium Act was definitely a temporary measure. A promise was made that it should terminate after a year. The question now is, 'Have we done anything more?' My objection could be answered by pointing out 'All that has been done is to provide by way of legislation the discretion which we desire should be exercised by the Court, and only the minimum is provided by legislation. Any further discretionary concessions which the Court might deem necessary might also be given, and this Bill does not prevent that'. This is the answer which can be given to my objection. But my objection on general principle is not answered. My objection on general principle is that if we pass laws, from time to time, of this sort, we add to the feeling that when we enter into a contract, we cannot depend on it. There will be a feeling of insecurity. What is the result? There is no harm if money lenders feel insecure. I would not shed a tear for that reason. But there is this harm that credit may be affected and poor men may not be able to borrow money. Even if the poor man now goes to the potential creditor, I can imagine the conversation between them, namely, 'You are not going to pay it. Even if you are willing to pay, the Courts will say 'you need not pay'. Why should I lend you money now?' My imaginary debtor will say, 'Never mind what the law says, never mind what the Court says. I am going to pay.' There are people who may make that kind of statement sincerely and there are people who will accept the promise with equal sincerity. But, I am afraid their number will be reduced considerably if this kind of legislation is repeatedly passed.

4-30
p.m.

" So, without opposing the Bill, I wish to utter a note of warning since I am an old man, old enough to be entitled to warn the Government as well as the Legislature. I take this opportunity to point out that we must respect two things. We must respect the independence of Courts in any discretion that they exercise. Secondly, we must respect the sacredness of the contracts that men enter into. If we said that despite the contract, a debtor will have such and such concession, we break that sacredness of the contract. We smash that credit which the debtor is entitled to, which the debtors as a mass are entitled to in this country where it is considered to be a pious obligation on the part of the son to clear the father's debts. It is considered obligatory on the part of the son to clear the father's debts not only in law but also as a matter of social conscience. There is also a religious scruple about it and it is considered that a person will be reborn to pay a debt if he had not paid it already. In this country where such a fine tradition had been allowed to grow, has been encouraged to grow and has grown as a matter of fact, is it right to interfere with it again and again without sufficient thought? In fact, last time it was even pointed out that we would extend the Moratorium Act. I had the temerity to say that it would not be done. I am sorry therefore that we have been compelled, whatever may be the reason of the Government, to give further concession and so to say break the

[Sri C. Rajagopalachari] [24th February 1955]

promise. It may be pointed out that prices have fallen and the debtors are therefore in difficulty. But, can I pray for rain and at the same time complain if I get wet on the road? When we wanted more rains so that more crops may grow, it meant that prices should fall. The fall of prices is a necessary consequence of plenty of crops. We cannot say that it is an unexpected consequence against which we should provide. Prices have to fall.

“ Sir, I can understand a general provision giving further discretion to Courts to give more and more instalments and even to provide that if a person did not pay at all, limitation may be eased to some extent. Many such things can be done. But it is not right to say that the Courts’ discretion must be exercised in such and such way. We must make laws for general purposes. We must not make laws for exceptional cases. What will happen if we make laws for exceptional cases is this. We will be lost in a maze of juridical difficulties. When we begin to provide for one exceptional circumstance some other thing follows from it which we do not want and when we provide for that yet another thing follows and we have to provide for that also. This will result in all sorts of complications and we may fail to do justice finally. This is the necessary consequence in jurisprudence when any Legislature begins to make laws for exceptional circumstances. The best thing to be done in these cases is to leave the discretion to the Courts, because they will have the opportunity to see A, B and C in concrete and can go into the details of the various cases. At the most, we can define here an agriculturist as a person who is not paying land revenue more than Rs. 150 or who is not paying any income-tax and so on. But, as Mr. Krishnamurthy just now pointed out, if a person paid one rupee more or one rupee less than the limit fixed under the Act, there will be difficulty, and there is a likelihood of injustice being done to certain people. That is why I say that if we leave these matters to the Courts, they will examine each and every case and see what the average income of a particular person is, whether he is really in any special difficulty and whether he deserves some special consideration. A man may be paying income-tax, but may have lost all his property in a fire accident. Should he not receive some consideration in view of his special difficulty? All these matters may very well be looked into and examined by the Courts whereas a law-making body cannot go into them for all time and for all cases. It is a very difficult thing which British jurisprudence never attempted to do. It is to point out these facts I have risen to make a few observations.”

* DR. V. K. JOHN :—“ Mr. Deputy Chairman, I am very pleased indeed that Sri Rajaji has intervened in this debate. I am wondering whether his advice will be taken by the present Ministry. It is a pity that it has become a rule that we will have only one or two Ministers besides the Hon. Leader of the House even when important matters are being discussed on the floor of this House. When this question was raised a few days ago, it was said that the Assembly was also sitting and therefore the Ministers could

24th February 1955] [Dr. V. K. John]

not be here. Then by the intervention of somebody, the Assembly began to sit in the morning. To-day the Assembly is not sitting now. But still, all the Ministers are not here. That is why I have been saying that this House has not been treated with respect and consideration . . .”

* SRI T. PURUSHOTHAM :—“ Sir, may I inform the hon. Deputy Leader of the Opposition that the other Ministers are not Members of this House? Moreover, they are not dealing with the subject that we are at present discussing.”

DR. V. K. JOHN :—“ I have to tell the Chief Whip that even though they are not Members of this House, they are entitled to be present here. Because they are not Members of this House, it does not mean that they need not be present here. If only all of them were present here, what Rajaji said could have been heard by them all. When they sat in conference afterwards, they may reconsider the matter in the light of Rajaji's advice and remove certain defects.”

* SRI C. RAJAGOPALACHARI :—“ Sir, I am sorry that my observations have led to so much heat. The Hon. Deputy Leader of the Opposition, I respectfully submit is not right in making a great point on the absence of the Ministers on other business. It is impossible for all the Ministers to be imprisoned in the House and the country would go to the devil if it were done. It is necessary for the Ministers to attend to executive work also in addition to legislative work. I also wish to say that the Chief Whip made an observation which may not be all right and no advantage should be taken of the error in his statement. Every Minister, of whichever House he may be a Member, represents the whole Cabinet when he is present in the House. It is not right for Dr. John to continually refer to the absence of Ministers. It is one thing for Dr. John to say now and then that it is desirable for Ministers to be present here. But to create so much heat about the absence of some Ministers is, in my humble opinion, not correct, Sir.”

DR. V. K. JOHN :—“ I am thankful to Rajaji's observation, Sir. I respectfully endorse every word which Rajaji uttered on this matter. I wish all the Ministers were here to listen to his speech to-day. When I spoke on the Bill last time, I asked, ‘ What is the object of the Bill? Is it intended to help some people who are indebted or is it intended to liquidate agricultural indebtedness as such? ’ I was told that the object was simple. It was said that the scope of the Bill was limited and they were making a provision to relieve certain persons who were heavily indebted. Rajaji has to-day made the position clear. I told some of my friends in the Select Committee that the only thing to be done under the present circumstances was to provide for the discretion of the Courts. Let the Court exercise its discretion in the matter of giving instalments. The Court will be in a better

[Dr. V. K. John] [24th February 1955]

position to see the merits of the case and take a decision. For example, it is for the Court to say whether the plaintiff in a suit deserved protection or the delendant. A Court can very well decide whetner a party really needed the money for agricultural purposes or whether the party was really in difficulty and wanted time. It has been laid down that a general rule may work hardships. Why do you make these complicated pieces of legislation which would not be understood even by lawyers and certainly not by the agriculturists? When the case goes before a Court, the judge passes a decree and allows payment in instalments in fit cases. I also suggested, Sir, that the Government might make a provision in the Bill enabling Courts to remit the whole or a part of the Court-fee in deserving cases. I said: Let there be a provision to the effect that there shall be no Court-fee collected in cases where agriculturists demand their money back. If the suggestion had been accepted, the Government would have done wonderful justice to the litigant-agriculturists. Now, they have destroyed the credit. Sir, the other day, I referred to the poem written by Oscar Wilde. It is an interesting poem in which it is said that man kills a thing he loves, some men do it by some means and others do it by other means. You love the indebted agriculturist. But you are killing him. You want agriculture to improve. You have destroyed it and you are destroying the economy of the countryside thereby. I am not satisfied with the form the new Bill has taken. I ask you: Have you made any surveys? If not, have you taken advantage of the survey made at the instance of the Reserve Bank of India? Sir, it is stated in that report, the Government give only three per cent of the total loans required by the agriculturists. I also referred the other day to what the great economist, Kayce, has said, 'When you want to spend money on consumption, first of all spend money on investment'. This is what he said. It is good. It increases the purchasing power of the people. But when you hoard money, it is bad. When you lend money at usurious rates of interest, it is bad. I said 'Penalise and send people to jail if they have lent money at usurious rates of interest'. Let people lend only at 2 per cent interest. Let the Government ban money-lending at more than two per cent interest. If they ban it, what will be the result? All money will go into co-operative societies, co-operative credit societies in every village which can lend money to needy agriculturists at 4 per cent interest, or five per cent interest. That is one way of solving the problem of agricultural indebtedness. The Government must amend the Co-operative Societies Act. All the world over, man gets credit not because he has got property or money in the bank or in Government securities but because he is honest. It is honesty that gets him money. If a neighbour finds an agriculturist honest, he will at once give him money even at rates less than those charged by co-operative societies. We must do something which will liquidate agricultural indebtedness. We are monkeying—if that term is not

4-40
p.m.

24th February 1955] [Dr. V. K. John]

unparliamentary—with this great problem of agricultural indebtedness. I am pleased indeed, Sir, that Rajaji, who intervened in this debate, was kind enough to say that it would be harmful if we had this legislation. It would interfere with contracts made between parties. If we pass such pieces of legislation every year, it destroys credit and kills the man whom you want to save. I say, Sir, the Government have brought in this Bill not because they like it but because they did not want the Communists to take advantage of the existing situation. The Government must be bold. We want a bold and courageous Ministry to do just and proper things and not be carried away by some artificial agitation carried on by some political parties. I know it is to put down Communist propaganda and to satisfy the Communists that you are introducing this Bill. You defeat the very object of the Bill. I would request the Government to reconsider the position. I promised the Hon. the Leader of the House yesterday that we would co-operate with the Government in seeing the Bill passed to-day. I stand by it even now. But at the same time, I want the Government to reconsider the Bill not on account of the criticisms I have offered but in the light of the suggestions made in the House by one in the position of Rajaji who has always stood by the poor indebted agriculturist and who introduced a Bill in 1938 to scale down debts. That Act of 1938 has worked great wonders in liquidating debts. Debt to the tune of crores of rupees has been liquidated. But what is this Moratorium Act? It was said last year that on account of continuous drought for many years, the Act was being passed to be effective for one year, to give some sort of relief to the agriculturists. The Government gave a definite undertaking that it would never be extended beyond one year. When the Government promised to do so, can a successor Government say: 'No, we are not bound by the promise made by the previous Government.' People have no confidence in the Government. The Chief Minister makes a solemn promise that the Act will not be in force for more than a year and that it is designed to meet a certain emergency that has arisen as a result of five years of continuous drought. Now the Government extend it in some other shape or form. I am sure it will kill the credit in the countryside. It has already killed the faith which people had in the Government. Rajaji has been so greatly pleased to make certain observations and I ask the Government to reconsider the position in the light of those observations."

* SRI K. BHASHYAM:—"Mr. Deputy Chairman, it was very refreshing to hear the free and frank statement made by Mr. Rajagopalachariar. There is no greater friend of the agriculturists than Mr. Rajagopalachariar. It is he that introduced the famous Bill of 1937."

SRI K. BALASUBRAMANYA AYYAR:—"It was he who brought in the Moratorium Act also."

[24th February 1955]

* SRI K. BHASHYAM :—“ I will come to it. I shall do it chronologically. He helped by his 1937 Act agriculturists to scale down the vast accumulation of debts they were suffering from. That Act gave great scope to courts of law to do justice to the agriculturists who were indebted. It was introduced not for limiting the powers of the Court but for the purpose of limiting the quantum of debts irrecoverable from the agriculturists. This Act has been working since 1937, for nearly twenty years, very well. The same Sri C. Rajagopalachari brought in this Moratorium Act last year. The idea at that time was that it would help to encourage increased production of food. As Chief Minister at that time he felt in his wisdom that if the agriculturist was not harassed for one year at least, production would go up. That expectation has been realized. Therefore, it is not as if the Act was passed for being in force for more than a year. I am glad that Sri Rajagopalachari has come here to give us the benefit of his views on this matter. Apart from the question whether one (the succeeding Government) could go back upon the promise given by the Chief Minister of the same party last year, I say that the present measure, though it seeks to give relief to the indebted agriculturists, does not solve the problem of rural indebtedness but is definitely harmful to the agriculturists. In spite of all our co-operative movement all these 50 years, have we solved the problem of rural indebtedness? No; the answer is in the negative. It is not a small problem as some seem to imagine. As far as my experience goes, and it is generally accepted, the agriculturists when they have plenty of money do not use it to pay back their debts but otherwise. Therefore by the passing of the moratorium, extending it by a month and then by bringing in this Bill, by this sort of constant cuddling of agriculturists the Government, in my view, are only bringing the agriculturists to their ruination.”

SRI MOHAMED RAZA KHAN :—“ On a point of order, Sir, I want to know whether having accepted the principle of the Bill when the motion for referring this to the Select Committee came, can the hon. Member speak on its principle now at the first reading stage? No doubt I have great regard for the opinions of Mr. Bhashyam. But I want to know whether it is in order for him to talk on the principle of the Bill at this stage, having accepted the principle when the motion for referring this Bill to the Select Committee came.”

* SRI C. RAJAGOPALACHARI :—“ On the point of order, Sir, no doubt if there is a point of order, the Chair will give its ruling. But I would like to mention that although the Bill may be passed now, as was mentioned by Mr. Bhashyam and Mr. John there is a provision and room for Government to reconsider the situation and it was therefore quite good and useful that Members expressed their views. Government has still the right of not going to the consent of the Governor or President in spite of the Bill having been passed.”

24th February 1955]

SRI MOHAMED RAZA KHAN :—“ I beg to differ from Rajaji. I maintain that such advice could be given at the final reading of the Bill when we could say that although we do not approve of the principle, inasmuch as the Bill is passed, we would ask the Government to examine this question before submitting it for the assent of the Governor or President. I think only at the final reading, such a request would be in order, and not at the first reading and that too after having accepted the principle when the motion for the reference of it to a Joint Select Committee came before the House.”

* DR. V. K. JOHN :—“ May I draw Mr. Raza Khan's attention that under rule 127 we are definitely entitled to discuss the principle of the Bill, when the Bill is taken into consideration? It is absolutely clear, under rule 127, that we are entitled to discuss the principle of the Bill at the first reading, that is, when the motion for the consideration of the Bill is taken up.”

* SRI K. BHASHYAM :—“ I think Dr. John has come to my rescue. At the time when the motion is brought up for the reference of the Bill to a Joint Select Committee, no question of discussing the principle of the Bill arises at all. We need not at all speak on the principle of the Bill at that stage. Only at the first reading when we are face to face with the Bill, we can discuss the principle of it. Therefore we are perfectly in order in discussing the principle of the Bill at the first reading. If we discuss the principle, we also discuss the amendments moved to the several clauses of the Bill. For instance I have myself given notice of certain amendments. Therefore it is not a question of my having agreed to the principle first and then opposing it now.

4-50
P.m.

“ As early as 1937 Rajaji passed the Debt Relief Act. Nobody could be a greater friend to the agriculturist than Mr. Rajagopalachari. When he came again to power in 1952, he did what he could to relieve the suffering of the indebted agriculturist. He passed the moratorium but he definitely said that it would be only for one year. The Co-operative societies which have been in existence for half a century were intended to help the agriculturists, to provide them with easy credit. Has the movement succeeded in spite of 50 years of working? No; the answer is no. The problem of rural indebtedness is not a small problem. What does Mr. B. V. Narayanaswami Naidu's report go to show? If one could see his report, one finds that the indebtedness of the agriculturist has only gone up and not decreased. Solving the problem of rural indebtedness is a difficult job. For two reasons it is difficult. Whenever the agriculturist gets money, instead of paying off his debt, he will spend it on some other thing. Again he thinks that after all the Government would come to his rescue, and therefore the tendency is for him to go on postponing the debt ultimately waiting for the wiping off of all debts. As things stand the position of the Government is that great pressure has been brought to bear upon them and they cannot escape from it. As far

[Sri K. Bhashyam] [24th February 1955]

as the present Bill is concerned, it was not a measure to scale down or wipe out debts altogether, it only provides that the agriculturists could pay their debts in easy instalments, limited to three annual instalments.

"I shall now come to the question of these annual instalments. I agree it is better not to interfere with the courts. Even under the laws now operating in the country, the Court has got the power, to allow a debtor to pay his debt in easy instalments to give him the desired relief. I know instances wherein the debtor has been given the concession to pay his debt in convenient instalments spread over a number of years. If the court is satisfied that the then economic condition of the debtor was such, it could give him the concession to pay his debt in easy instalments. That right is always there for the Court. The court exercises its discretion and decides on the merit of the case. Therefore I say that when that statutory power is there for the court, it is better to leave the matter to the court and not pass this Bill stipulating that the agriculturist could pay his debt in three years.

"Mr. Rajagopalachari has said the moratorium ought not to have been extended. But the pressure on the Government has been great as I have said before that they have come forward with this measure. As I have observed earlier, the jurisdiction of the Court need not have been superseded. But inasmuch as the Bill definitely states that its purpose is not to wipe off debt but to give relief to the agriculturist to pay his debt in three annual instalments I support the Bill and at the same time request that Government would take into account what I have said."

5 p.m. * SRI T. PURUSHOTHAM :—"If I intervene it is only to express my concern at the very unfortunate remarks made by the Deputy Leader of the Opposition. I wish to assure him, Sir, that it is not for any political reasons that this Bill has been brought forward. I wish he had not made such wide remarks because he knows very well that when the Moratorium Act was about to expire, we have been receiving a large number of representations from agriculturists praying for extension of the Act. We have some of us been going round the districts for hearing representations and people represented to us that the Act should be extended. There have also been representations from other quarters stating that there is no need to extend the Act. All these representations were considered, and because we felt that some relief was necessary for the agriculturists, this Bill has been brought forward. It is not for pleasing any political party. It is only to express strong protest against the statement made by the Deputy Leader of the Opposition that it was to please some other party that we have brought forward this Bill. I wanted to say that this Bill had nothing to do with any such political consideration and that it was only in the sincere belief that we should give

24th February 1955] [Sri T. Purushotham]

some relief to the agriculturists, that we have come forward with this measure. The other representations against this measure were duly considered. Several exemptions have been provided to ensure that as far as possible only *bona fide* agriculturists are benefited by this measure. So it is I once again strongly protest against the insinuation made by the Deputy Leader of the Opposition against the party in power. I hope he will withdraw what he has said."

* DR. V. K. JOHN :—" It is not an insinuation. It is a statement. You are out to please and to placate the Communists." (Interruption by Sri K. Bhashyam.)

* SRI T. M. NARAYANASWAMY PILLAI :—" Mr. Deputy Chairman, Sir, we all respect the views given expression to by the hon. Member Sri Rajaji, namely, that the Legislature should not interfere with the sanctity of contracts and that in the field of agricultural credit, natural forces must be allowed to have their operation. He, however, conceded that the Legislature should interfere to give relief in cases of usurious rates of interest. He did not desire that the Legislature should proceed further. He said that the Moratorium Act should be repealed on the expiry of one year as promised by him. I ask, Sir, has it not been lifted now? The Moratorium having been lifted, he must have, in my opinion, no objection to the provision in the Bill for payment in instalments. He had no objection to Courts ordering payment in instalments but would object to the Legislature prescribing that mode of payment in the case under consideration. If the Legislature did not provide for payment by instalments in cases covered by the Moratorium Act, it is doubtful as to whether Courts would order payment in instalments. Now as a matter of fact the Moratorium has ceased and Mr. C. Rajagopalachariar has no objection on that score. Listening to his speech, I was surprised to find how he could ignore the fact that this Bill was a natural consequence of the Moratorium Act passed by him last year—I might even add, the inevitable consequence of the Act passed last year. If that Act had not been passed last year, perhaps there would have been no necessity to consider whether relief for payment of debts by instalments ought to be given. The position is this: If what was said last year was correct, namely, that for a number of years the agriculturists had been affected by drought and had been unable to pay, and had been forced to pile up their debts, now, what would be the position if the Moratorium Act is suddenly lifted without any positive mode of payment? I would illustrate it by figures. A debtor perhaps was borrowing year after year a hundred rupees. This is not unusual. He was faced with a succession of drought years. At the end of 1953, he would have to pay his creditor a sum of Rs. 500 principal alone; to that sum interest must be added. If the moratorium had not been in operation, perhaps he would have had or even found means to negotiate with his creditor and got on as he had got on previously. Rightly or

[Sri T. M. Narayanaswamy Pillai] [24th February 1955]

wrongly—this is not the time to question it—the Moratorium had come into effect. Therefore if all at once the Moratorium was removed without any stipulation as to the time of payment, the pent-up energies of the creditors would no more be kept at bay and they would suddenly sweep down upon the debtors; and the debtors who were not able to pay even Rs. 100 per year would be suddenly called upon to pay Rs. 500 with interest and they would be completely ruined. So, the first thing that interfered with the normal course of events and sanctity of contracts was the introduction of the Moratorium Act. Once the Moratorium Act was passed, and once there was the piling up of debts in successive years, is it right on the part of the Legislature merely to say now that the debtors are under a duty to pay all the five hundred rupees in the same year and must pay all at once? This is the problem. If perhaps there had been no piling up of arrears, it would have been different. But when once debts had been allowed to be piled up, there is absolute necessity on the part of the Legislature to see that normal credit facilities are restored gradually, without any rude shock either to the debtor or to the creditor. The courts are entitled to show relief by awarding instalment decrees in exceptional cases but they do not give relief in all cases. This Bill seeks to leave the question of payment in instalments to the discretion of courts in the case of all debtors having large means; the court's powers in these cases are not restricted or taken away; in the case of debtors of small means whose debts have been piled up, there is need to give relief by enabling them to pay in four instalments and the courts are compelled to take note of the provisions in the Bill and give relief in accordance with them. This appears to me to be the best method in the circumstances. If there is to be no Moratorium, the best way of helping the debtor and the creditor is to make them come together and try to have their disputes adjusted, but that is not practicable. The creditor if left to himself would not have attempted to get his differences adjusted; he would have rushed to court and ruined the debtor. I would have been most happy if conciliation had taken place. But that could not be done. It is too late in the day now for somebody to come and say that a Bill of this kind should not be passed on the theoretical ground that you should not interfere with the sanctity of the contract. One could not ignore the actual pressure brought upon the Government of the day by people who really suffered. Therefore, Sir, I for one, feel that the Government would not have done their duty if they had not brought forward this Bill for the relief of the agriculturists. The Government say that debts shall be paid back in four instalments. The Legislature does not refer to debtors of larger means. We need not go beyond the limited scope of the Bill; the people interfered with are men of small means and we need not object to this Bill. The hon. Member Sri Krishnamoorthy said that the term 'Agriculturist' has been narrowed down too much. He wanted a limit of Rs. 250 to be fixed. In his opinion the debtor who pays a tax of Rs. 250 is also a debtor-agriculturist of small means

24th February 1955] [Sri T. M. Narayanaswamy Pillai]

and should be allowed the benefit of payment in four instalments. The Government have not extended this Bill to people paying a land revenue of Rs. 250, that is to say such a debtor-agriculturist is not a debtor of small means in the opinion of the Government. In other words, the Government are interfering with the sanctity of contract in every case and propose to do so only in the case of debtors of small means because the Courts could not be expected to grant the relief of instalments uniformly in all cases.

“ The Legislature has taken care to limit the relief only to cases where it thought such relief absolutely necessary. If all at once the Moratorium were to be removed without some relief of payment in instalments, there would be an utter collapse of the debtor-class of small means. 5 10 p.m.

“ So a *via media* had been thought of and that is why the provision relating to instalments was introduced. I would have very much welcomed a provision in the original Bill with regard to small creditors. For some reason or other, that provision has been given up. Sir, this is not the time to deal with the question of agricultural indebtedness as such.”

* SRI A. SUBRAMANYAM :—“ கனம் உதவி சபாநாயகர் அவர்களே, இந்த நாட்டின் முதுகெலும்பாக உள்ள மக்கள் விவசாயிகள். அவர்களுடைய கஷ்டங்களைப் போக்குவதற்கு இம்மாதிரியான சட்டம், அதாவது கடன் வாய்தா ராஜாஜி அவர்கள் கொண்டுவருவது மிக மிக அவசியம் என்பதையாரும் மறுக்கமுடியாது. இருந்தாலும்கூட இதில் ஒரு முக்கியமான விஷயத்தை நாம் தெரிந்துகொள்ளவேண்டும். ஏனென்றால் சிலர் இந்த மசோதாவின் நோக்கம் என்னவென்பதையே சரியாகப் புரிந்துகொள்ளவில்லை. கனம் ராஜாஜி அவர்கள் 1937-ல் முதல் மந்திரியாக இருந்த பொழுது கொண்டுவரப்பட்டது கடன் நிவாரணச் சட்டம், அடுத்தபடியாக சென்ற ஆண்டில் கனம் ராஜாஜி அவர்களால் கொண்டுவரப்பட்டது கடன் ஒத்திவைப்புச் சட்டம். இப்பொழுது அரசாங்கத்தாரால் கொண்டுவரப்பட்டிருப்பது கடன் வாய்தாச் சட்டம். இந்த மூன்றாக்கும் உள்ள வித்யாசத்தை கனம் அங்கத்தினர்கள் எல்லோரும் நன்கு புரிந்து கொண்டு விட்டார்களேயானால் இன்றையதினம் இந்தச் சட்டத்தில் பல குறைபாடுகள் இருப்பதாகப் பேசுவதற்கே இடமிருக்காது என்பது என்னுடைய அபிப்பிராயம்.

“ அன்றையதினம் கனம் ராஜாஜி அவர்கள் கடன் நிவாரணச் சட்டத்தைக் கொண்டுவந்தார்கள் என்றால் விவசாயிகளெல்லாம் கடன் சுமையினால் பெரிதும் பாதிக்கப்பட்டிருந்தார்கள். இவ்வளவுதான் வட்டி வாங்கவேண்டுமென்று நிர்ணயிக்கக்கூடிய சட்டம் எதுவுமேயில்லையாதலால் லேவாதேவிக் காரர்கள் விவசாயிகளிடமிருந்து கொள்ளை வட்டி வாங்கிவந்தார்கள். வட்டியே முதலுக்கு மேலாகப்போய் விவசாயிகளைத் தொல்லைக்கு ஆளாக்கி விட்டது. அதன் காரணமாக விவசாயிகளைக் காப்பாற்றவேண்டுமென்ற நோக்கத்தோடு கனம் ராஜாஜி அவர்களால் 1937-ம் வருஷத்தில் கடன் நிவாரணச் சட்டம் கொண்டுவரப்பட்டது.

“ சென்ற ஆண்டு கடன் ஒத்திவைப்புச் சட்டத்தைக் கொண்டுவந்தார்கள் என்றால் அதற்கும் காரணம் இல்லாமலில்லை. சென்ற சில ஆண்டுகளாகத் தொடர்ந்தாற்போல மழையில்லாததின் காரணமாக விவசாயிகள் கஷ்டப்பட்டு வந்தார்கள். அதேசமயத்தில் சென்ற ஆண்டு கொஞ்சம் மழை பெய்து விவசாயம் ஈல்முறையில் இருந்ததினால் கடன் கொடுத்தவர்கள் எங்கே விவசாயிகளை ஒரேயடியாக நெறித்துவிடுவார்களோ என்ற எண்ணத்தில்

[Sri A. Subramanyam] [24th February 1955]

இராஜாஜி சர்க்கார் கடன் ஒத்திவைப்பு மசோதாவை கொண்டு வந்தார்கள். விவசாயிகளுக்கு கொஞ்சம் அவகாசம் கொடுத்தால் அவர்கள் கடனை கொடுக்க செளகரியம் ஏற்படும் என்ற எண்ணத்தில்தான் ஒரு ஆண்டுக்கு ஒத்திவைக்க சட்டம் கொண்டுவரப்பட்டது. இவ்வாண்டும் சர்க்கார் விவசாயிகள் கொடுக்கவேண்டிய கடனை ஒரேயடியாகக் கொடுக்கச் சொன்னால் முடியாது என்ற கருணையினால் நான்கு தவணைகளில் கடனைக் கொடுக்கலாம் என்ற சலுகையை விவசாயிகளுக்கு அளிப்பதற்காக இந்தக் கடன் வாய்தாச் சட்டத்தைக் கொண்டு வருகிறார்கள்.

“இன்றைக்கு விவசாயிகளுக்கு முன்பு இருந்த கஷ்டம் இல்லை. அவர்கள் சமாரான நிலைமையில் இருந்துகொண்டிருக்கிறார்கள் என்பதையாரும் மறுக்கமுடியாது. ஆகவே இன்றையதினம் கடன் ஒத்திவைப்பு மசோதா காலாவதியானால் உடனடியாக அந்த விவசாயிகளை கடன் கொடுத்தவர்கள் ஹிம்சை செய்து விடுவார்களே என்ற பயத்தால் அம்மாதிரி ஹிம்சை செய்யாமல் இருக்கவேண்டுமென்பதற்காக தவணைகளில் கொடுக்கலாம் என்கின்ற வசதியோடு இந்த மசோதா கொண்டு வரப்படுகிறது. இதுதான் இந்த மசோதாவின் உட்கருத்தாகும்.

“ஆனால் சிலர் சொல்லுகிறார்கள் நான்கு தவணைக்குள் எப்படிக் கொடுப்பது என்பதாக, மற்றொருவர் ஆறு தவணைகளில் கொடுக்கலாம் என்கிறார். இன்னொருவர் 10 தவணைகளில் கொடுக்கலாம் என்கிறார். இப்படி அவரவர்கள் அவர்களுடைய செளகரியத்தை உத்தேசித்து சொல்லிக் கொண்டு போனால் எவ்விதமான பிரயோஜனமும் இல்லை. பொதுவாக விவசாயிகளுடைய நன்மையை உத்தேசித்து நான்கு ஆண்டுகளில் நான்கு தவணைகளில் வசூலித்துக் கொள்ளலாம் என்று சர்க்கார் எல்லாவற்றையும் பரிசீலித்தே கொண்டு வந்திருக்கிறார்கள். ஆகவே இந்த மசோதாவை முழுமனதுடன் வரவேற்கப்பட வேண்டியதாகும். நானும் வரவேற்கிறேன்.

“இந்தச் சட்டத்தைக் கொண்டுவந்திருப்பதற்குக் காரணம், இந்தச் சட்டத்தின் நோக்கம் முதலியவற்றை நன்கு கவனித்து இதிலுள்ள சிறப்பான அம்சங்களைப் பாராட்டவேண்டுமென தவிர, இந்த மசோதாவின் கருத்துக்கு உட்படாத பல்வேறு விஷயங்களைக் குறிப்பிட்டு அவை எல்லாம் இதில் காணப்படவில்லை என்று குறை சொல்வதில் பிரயோஜனமில்லை. ரூ. 150-க்குள் கிஸ்தி கட்டும் விவசாயிகளுக்கு எல்லாம் இந்த மசோதாவினால் அனுசூலம் உண்டென்றால் உடனே, ரூ. 250, ரூ. 500-க்குள் கிஸ்தி கட்டும் விவசாயிகளுக்கு எல்லாம் இந்த மசோதாவினால் அனுசூலம் ஏற்படும்படி செய்யாதது ஒரு குறை என்று சொல்வது சரியல்ல. அதன்படி நாம் 500 ரூபாய்க்குள் கிஸ்தி கட்டும் விவசாயிகளுக்கும் இதனால் சலுகை கிடைக்கும் என்றால் பின்னர் 1,000 ரூபாய் கிஸ்தி கட்டும் விவசாயிகளுக்கும் சலுகை கொடுக்க வேண்டுமென்று சொல்லப்படும். ஆகவே, இதற்கு ஒரு முடிவேயிருக்காது. கூடுமானவரையில் சர்க்கார் உண்மையான விவசாயிகளுக்கு அனுசூலம் செய்யவேண்டுமென்ற நோக்கத்தோடேயே இதைக்கொண்டு வந்திருக்கிறார்கள். அதற்காகவே ரூ. 150-க்குள் கிஸ்தி கட்டும் விவசாயிகளுக்கு இதன் பயன் பூர்ணமாக உண்டு என்று சொல்லப் பட்டிருப்பதையும் வரவேற்கிறேன். ஆனாலும் ஒரு விஷயத்தை மட்டும் அரசாங்கத்தின் கவனத்திற்குக் கொண்டுவரப் பிரியப்படுகிறேன்.

“சர்க்கார் கொடுத்துக் கொண்டிருக்கும் தக்காவிக் கடன் வசதி விவசாயிகளுக்கு எல்லாம் நன்கு கிடைக்கும்படியாகச் செய்யவேண்டும். அப்படிச் செய்தால்தான் ஏழை விவசாயிகளுக்கு கூடுமானவரையில் அனுசூலம் ஏற்படும். இன்றையதினம் இந்தத் தக்காவிக் கடன் கிடைக்காததின் காரணமாக மாணவாரிப் பிரதேசத்தில், காடாரம்பப் பிரதேசத்திலுள்ள விவசாயிகள் பெரிதும் கஷ்டப்படுகிறார்கள். அவர்களுக்கு எல்லாம் பொருளாதார வசதி அளித்தால்தான் நன்கு விவசாயம் செய்ய முடியும். நீண்ட கால தவணையில் கடனையும் திருப்பித்தர முடியும்.

24th February 1955] [Sri A. Subramanyam]

“அதோடு விவசாயிகளுக்குக் கடன் கொடுக்கும்போது நிலத்தின் மதிப்பை முன்பு எதோ ஒரு காலத்தில் இருந்த மதிப்பை வைத்துக்கொண்டு மிகக் குறைந்த பணமே கடன் கொடுக்கிறார்கள். ஒரு ஏக்கராவுக்கு மதிப்பு 50 ரூபாய் என்று போட்டு பத்து ஏக்கர் நிலம் ஒருவருக்கு இருந்தால் குறிப்பிட்ட மதிப்பிற்கு பாதி 250 ரூபாய்தான் கொடுக்கிறார்கள். அந்த 250 ரூபாய்க்கு ஒரு ஜதை மாடுகள்தான். வாங்கலாம். தண்ணீர் இறைக்க கவலையோ அல்லது எருவு சம்பந்தமானவைகளோ வாங்க முடியாது.

“என் அனுபவத்தைப் பொறுத்தவரையில் ஒரு விஷயத்தைச் சொல்ல விரும்புகிறேன். எனக்கு காரங்கிரஸ் தியாகி என்ற பெயராலே 5 ஏக்கரா நிலம்தான் கொடுத்தார்கள். நான் அப்பொழுதே காரங்கிரஸ் தியாகி களுக்குப் பத்து ஏக்கரா நிலம் கொடுக்கலாமென்று சொல்லப்பட்டிருக்கிறதே. எனக்குப் பத்து ஏக்கரா கொடுக்கக்கூடாதா என்றேன். ஆனால் அதற்குப் பதில் ‘உன் ஒவ்வொரு ஏக்கராவும் ஆயிரம் ரூபாய் மதிப்புப் பெறும்’, என்றுார்கள். ஆனால் இந்த ஐந்து ஏக்கராவில் விவசாயம் செய்யவேண்டுமென்பதற்காக நான் தக்காலிக் கடனுக்கு மனுச்செய்து கொண்டேன். அப்பொழுது என்னுடைய ஒவ்வொரு ஏக்கராவின் மதிப்பும் 50 ரூபாய் என்று போட்டு கடன் ரூ. 250 தான் கொடுக்கப்படும் என்று சொன்னார்கள். இப்படி கடன் கொடுக்கும்போது ஒரு மதிப்பு, நிலம் கொடுக்கும்போது ஒரு மதிப்பு, வரி விதிக்கும்போது ஒரு மதிப்பு, தக்காலிக் கடன் கொடுக்கும்போது ஒரு மதிப்பு என்று போடுவது அவ்வளவு சரியல்ல. ஆகவே எமை எளிய விவசாயிகளுக்கு இன்றைக்கு இருக்கக்கூடிய நில மதிப்பை வைத்துக்கொண்டு அதிகமாகத் தக்காலிக் கடன் உதவி செய்யவேண்டுமென்பதை வற்புறுத்திக் கேட்டுக்கொண்டு நான் எனது வார்த்தையை முடித்துக்கொள்ளுகிறேன்.”

*SRI V. V. RAMASWAMI:—“கனம் உதவி தலைவர் அவர்களே, இந்தக் கடன் வாய்தர மசோதாவில் பல குறையீடுகள் சொல்லப்பட்டன. இந்த மசோதா வருவதற்கு முக்கியமான காரணம் சென்ற ஆண்டில் கடன் ஒத்திவைப்புச் சட்டம் நிறைவேற்றப்பட்டதுதான்.

“ஆனால் அந்தச் சட்டம் கொண்டுவரப்பட்டதற்குக் காரணம் என்ன? அது எந்தச் சூழ்நிலையில் கொண்டுவரப்பட்டது என்பதெல்லாம் சரியாக விளக்கப்படவில்லை. எதிர்க் கட்சிக்காரர்களோ அல்லது அரசாங்கக் கட்சியைச் சார்ந்தவர்களோ, அந்தச் சட்டம் வேண்டுமென்று கிளர்ச்சி செய்ததாகத் தெரியவில்லை. ஒரு வேளை எதிர்க் கட்சிக்காரர்கள் மக்களது கவனத்தைக் கவர்ந்து வருகிறார்களே, நாமும் ஏதாவது செய்வோம் என்கின்ற எண்ணத்தில் இந்தச் சட்டத்தைக் கொண்டுவந்திருக்கக்கூடும்.

“அது எப்படியிருந்தபோதிலும் அந்தச் சட்டத்தைச் சர்க்கார் கொண்டு வந்ததின் காரணமாக கடன் வாங்கியவர்களிடையே ‘ஒரு வருடம் கழித்துப் பார்த்துக்கொள்வோம்’ என்கின்ற மனப்பான்மை ஏற்பட்டுவிட்டது. அதோடு கடன் ஒத்திவைப்பு மசோதாவைக் கொண்டுவந்தது நம் சர்க்கார்தானே. அவர்கள் ஒரு ஆண்டுக்குப்பின் கடன் நிவாரணச் சட்டம் கொண்டு வரமாட்டார்களா என்ற எண்ணமும் வளர்ந்து விட்டது.

“அதனால் விவசாயிகளுக்குக் கடன் கொடுப்பவர்கள் பயப்படவேண்டிய நிலை ஏற்பட்டது. விவசாயிகளுக்குச் கடன் கிடைக்கும் வழிகளும் சுருங்கி விட்டன. இந்த நிலையில் அந்த மாரபோரியம் சட்டம் ஒரு ஆண்டுபோடு முடிவடைந்துவிடுவதால், கடன் கொடுத்தவர்கள் கோர்ட்டில் அவர்கள் பேரில் தாவாபோட்டு அவர்கள் நெறிக்காமல் இருக்க சர்க்காருக்கு இந்தச் சட்டத்தைக் கொண்டு வருவதைத் தவிர வேறு வழியில்லை. ஆதலால் சர்க்கார் வாங்கிய கடனைத் தவணைகளில் கொடுக்கவேண்டுமென்பதற்காக இந்தச் சட்டத்தைக்கொண்டு வந்திருக்கிறார்கள். ஆகவே இது எல்லோராலும் வரவேற்கவேண்டியதாகும். ஆனால் கனம் ராஜாஜி சொல்லின்படி இம்மசோதாவை நிறைவேற்றிவிட்டு கவர்னர் அல்லது பிரசிடெண்ட்

[Sri V. V. Ramaswami] [24th February 1955]

அங்கீகாரம் வாங்காமல் நிறுத்திவிட்டிருக்கானால் கெடுதி ஏற்படும். அமைச்சர் அவையின் நற்பெயரும் கெட்டுவிடும். ஆகவே கனம் ராஜாஜி சொல்லியபடி செய்யாதீர்கள்.

“நிற்க கிராமங்களிலுள்ள விவசாயிகளின் நிலைமையைப் பார்த்தால் ரொம்பவும் கஷ்டமாகியிருக்கிறது. கிராம மக்கள் அரசாங்கத்திடம் என்ன எதிர் பார்த்திருந்தார்கள் நிலஉரிமைச் சட்டம், அதாவது தானே உழுது விவசாயஞ் செய்பவருக்குத் தேவையான நிலம் கிடைக்கும்படி செய்தல்; கடன் பளுவைக் குறைக்க ஏற்பாடு ஆகிய இரண்டு சீர் திருத்தங்கள்தான். ஆகவே அரசாங்கத்தார் இந்த மசோதாவைக் கொண்டுவருவதோடு நின்று விடாமல் கூடியசீக்கிரத்தில் அவர்களுடைய கடன் பளுவையும் குறைப்பதற்கு ஒரு ஏற்பாடு செய்யவேண்டும். இவ்வளவு நிலம்தான் ஒருவர் வைத்துக் கொள்ளலாம், தேவையான கடன் சர்க்காரே அவர்களுக்கு உதவி செய்யும் என்பது போன்ற விரிவான சட்ட திட்டங்களை ஏற்படுத்தவேண்டும்.

“இன்றைய தினம் கிராமங்களிலுள்ள விவசாயிகளுக்கு கடன் உதவி யார் செய்கிறார்கள் என்று பார்க்கவேண்டும். அவர்களுடைய சுற்றத்தார்கள், பெரிய விவசாயிகள், வியாபாரிகள் ஆகியோர்தான் உதவி செய்கிறார்கள். சில பேர்கள் கூட்டுறவு சங்கங்கள் மூலம் குறைந்த வட்டிக்கு கடன் வாங்கியிருக்கிறார்கள்.

“கூட்டுறவு சங்கங்கள் எல்லோருக்கும் தாராளமாக கடன் கொடுக்க சட்ட திட்டங்கள் இடங்கொடுக்கவில்லை. அதுவும் வேண்டிய காலத்தில் கிடைப்ப தில்லை. ஆகவே விவசாயிகளுக்குத் தேவைப்படும் பணம், வேண்டிய காலத்தில் உடனுக்குடன், குறைந்த வட்டியில், அவ்வூரிலேயே கிடைக்கும் வழி செய்யவேண்டும்.

“ஆகவே இந்தச் சட்டத்தை நாம் நிறைவேற்றி விட்டாலும்கூட விவசாயி களுக்கு வேண்டிய காலத்தில் உடனாகுடன் கடன் கிடைக்க சகக்கார் தக்க ஏற்பாட்டைச் செய்வதும் ரொம்ப அவசியம் என்று இச்சந்தர்ப்பத்தில் சொல்லிக்கொண்டு இந்த மசோதாவுக்கு என் ஆதரவைத் தருகிறேன்.”

5-20 * THE HON. SRI M. A. MANICKAVELU NAICKER:—

p.m. “Mr. Deputy Chairman, Sir, I wish to state at the outset that the Government are as much aware as hon. Members who spoke earlier are that the normal course of law and the regular operation of contractual relations should be allowed to go on without interference. But we must go a little into the background of this Moratorium legislation, that is, the conditions which necessitated the passing of this Act. It is admitted on all hands that any Moratorium Act is an emergency measure which ought not to be resorted to lightheartedly. We know it should be thought of only in very exceptional circumstances. And now, we must examine whether there was such an emergency when this measure was first undertaken last year. I submit, there was such an emergency last year. Hon. Members are aware that we had had a very bad time for six or seven years on account of continuous failure of monsoons. In fact, during living memory, we have never had such a bad period. So much so, the Government had to spend a large sum of money—several crores of rupees—on relieving famine and the sad plight in which the ryots found themselves on account of failure of rains. Not only this. Thousands of gruel centres were opened, which cost the Government one or two crores of rupees, to feed the people. So, it was a very abnormal situation which we never had for thirty or forty years. In these circumstances, a

24th February 1955] [Sri M. A. Manickavelu Naicker]

Kind-hearted Chief Minister at that time—a person who has great sympathy for agriculturists—thought that a measure like the Moratorium Act should be passed and this House passed the measure. In getting the Act passed, the Government said that the operation of the Act would be for only one year and that it would not be extended beyond that period. Even the author of that Act has come here and said that it is wrong to extend the life of the Act. I am glad that we are now able to read the mind of the author of that Act unlike as in the case of Shakespeare's works, where one cannot say what Shakespeare had in his mind when he wrote his works and where one sees different interpretations and so many books have been written on how the mind of the author should have worked. Now there is no difficulty and the author is here. He has plainly told us what he has in his mind."

* DR. V. K. JOHN :—" You did not know it before? "

THE HON. SRI M. A. MANICKAVELU NAICKER :—" We knew it also. Kindly wait for some time. You will know about it. The Government also knew what he had in his mind. That is the reason why, I submit, we have not extended the Moratorium Act. It was suggested that there was a breach of the promise. I claim, there was no breach at all. If, however, it is asserted that there was a breach, I concede there was a breach only in so far as the Act was extended to be in operation for a few weeks more than the stipulated period so that, meanwhile, we could pass this Act. So, the Moratorium Act is dead, dead as a door nail. Then, why have we undertaken this piece of legislation? Having passed the Moratorium Act and created a situation in the countryside which has rudely disturbed the condition of credit system, are we justified in simply keeping quiet? We are not justified in sitting quiet. This is a sort of a consequential measure. Rajaji got the Moratorium Act passed. We are bringing in a consequential amendment to it, so to say. I am only carrying out an amendment. If I do not do it, there will be a hopeless state of affairs created in the country. The whole process is something like applying the vacuum brake. The brake was applied last year. Now it should be released. If we suddenly release it, the car will be damaged. We are now enabling the debtors to pay their dues in instalments. Otherwise, what will happen is this. The creditors like crows will have their prey. They have been shut out on account of the rains, if I may figuratively put it. As soon as the rains stop, they will prey with redoubled vigour. For one year, they were made to keep quiet. Now, they will rush to the courts and the situation will become worse. Then, the rvots will curse the Chief Minister who introduced this Act. They will say: ' Why did this person introduce this measure? If things had been allowed their normal course, it would have been better.' They will feel very unhappy about the moratorium granted to them. In order to avoid the spectacle of creditors rushing to the courts at one time,

[Sri M. A. Manickavelu Naicker] [24th February 1955]

we are introducing this measure. Further creditors are afraid that some new Act may come like the 1938 Act and scale down the debts. So, they would like to collect their dues at the earliest moment possible. Therefore this bill is the most logical thing that one can think of in the circumstances."

* DR. V. K. JOHN :—" You do not call this moratorium? "

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" No, Sir. I do not call it moratorium. Dr. John asks: ' Why do you regulate payment of dues in instalments? ' Government would have kept quiet. But we also know something about courts. Now, of course, there is a liberal tendency on the part of courts to grant ' instalments '. But about twenty years ago, things were so hard that judges used to be nicknamed ' instalment judge ' when they allowed ' instalments ' and ' Draconian judge ' when they never gave ' instalments '. That was the state of affairs then. Even now, we cannot entirely depend on courts. There are judges and judges. Some judges may say that they will not give time for repayment and some may give. So, let there be no criticism levelled against us that . . . "

* DR. V. K. JOHN :—" Have the Government lost faith in courts? "

5-30
P.m.

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" It is not a question of losing faith in courts. Courts like advocates like Dr. John differ from one another. It was also suggested that we had succumbed to political propaganda and political pressure. Especially the Communists come in for everything. It is not a question of yielding to pressure. Of course there was representation from the ryots and others. But we have brought this measure of our own accord—*suo motu*. You may say it is right or wrong. Having done something earlier, I mean having worked the Moratorium Act for one year, the necessary corollary was to bring forward this Bill."

DR. V. K. JOHN :—" May I ask whether this Bill is a corollary to the Moratorium Act? "

THE HON. SRI M. A. MANICKAVELU NAICKER :—" In a sense so. It is too soon to forecast anything. We shall wait and see. Let not the hon. Member be very anxious. We thought how best to extricate ourselves from the situation that has been created by the passing of the Moratorium Act. We thought that this was the best way to deal with the debtor, the creditor and the credit system of the country.

" The discussion has been carried on here from two angles, one taking into consideration the difficulties of the debtors and the other, that of the creditors. One was that the debtor should be given more facilities, that the exemption should not be limited to persons paying a land revenue of less than Rs. 150 but that the exemption limit should be Rs. 200 or Rs. 300. The other was

24th February 1955] [Sri M. A. Manickavelu Naicker]

that the creditor advanced money in an emergency, that the creditor has also got to live and that therefore his credit should not be blocked and all that. Something could be said for both sides. But the Government thought over the whole problem and they wanted to steer clear of both these two extremes. I think we have done the right thing in having brought forward this Bill.

"An hon. Member said there were certain complications in this Bill, I mean legal complications. Complications are always there. If there are no complications in law making, there is no room for lawyers in the country. The whole tribe as such will go. (Laughter.) However much we may try, there will be some difficulty. Lawyers must remove them. They will flourish only then. We shall as far as possible try to remove the complications when we make rules under the Act."

DR. V. K. JOHN :—"Are the Government providing for lawyers?"

* THE HON. SRI M. A. MANICKAVELU NAICKER :—"There are of course State lawyers. I think the hon. Member has also had something to do with this though a State lawyer. He is still at loggerheads with Government. It is not yet settled.

"Sir, the question of notice of the amendments have been raised by my lawyer friends. I think hon. Members would realise our difficulty. We have got only two or three days left before the Moratorium Act expires. Before that we have to pass this measure, get the assent of the Governor and the President. All these have got to be done before the end of this month. The hon. Member Sri K. Balasubramania Ayyar said that the object of his moving his amendments was only to let Government take due notice of them. I can assure him that Government will take due notice and judicial notice of what all he said and bear it in mind and would try to see how far the provisions could be perfected in the rules which we would be making under this Act. That is why I am not accepting any amendment for the very good reasons I have stated already. Therefore I would request hon. Members to withdraw the amendments they have given notice of and see to it that this Bill is passed as early as possible."

DEPUTY CHAIRMAN :—"The question is—

'That the Madras Indebted Agriculturists (Repayment of Debts) Bill, 1955 (L.A. Bill No. 2 of 1955), as passed by the Assembly be taken into consideration.'

The motion was carried and the Bill was taken into consideration.

Clause 2.

* SRI K. BHASHYAM :—"Sir, I move—
'In sub-clause (a) (i) for the words "one hundred and fifty rupees" substitute the words "one hundred and one rupees".'

[Sri K. Bhashyam] [24th February 1955]

" I am moving this amendment not merely with a view to fixing Rs. 101 as the limit instead of Rs. 150 as stipulated in the Bill. In all these cases there should be some sort of classification, which the Government have got to prove before the courts. That contingency might arise sometimes when a case is taken to a court. I have put the figure at Rs. 101 because during the time Rajaji was the Chief Minister, he once ordered that only to those paying Rs. 101 and less, remission of land revenue could be granted. I had the honour of arguing in the Court in a case that that order of Rajaji stating that only those paying a land revenue of Rs. 100 and less would be granted remission of land revenue, was against the Constitution. The Judges who heard the case decided that the classification of Rs. 100 fixed was a correct classification and was justifiable. They thus upheld Rajaji's classification. That is why I say in the matter of classification, we could safely take that limit of Rs. 100 which has been upheld by the Court as a safe classification. That is why I have moved my amendment so that instead of saying in sub-clause (a) (1) 'one hundred and fifty rupees' we could say 'one hundred rupees'."

For want of a seconder, the amendment of Mr. Bhashyam fell through.

* SRI K. BALASUBRAMANYA AYYAR :—" Sir, I move—

' In sub-clause (b) (iii) after the words "breach of trust" add the following :—

" or any obligation in the nature of trust as defined in Chapter (9) of the Indian Trust Act of 1882 " '

Merely saying 'breach of trust' is not enough. There are certain obligations in the nature of trust and all those things have been defined in the Indian Trust Act of 1882. I shall give one illustration. A, a partner employed on behalf of himself and his co-partners is negotiating the terms of a lease and clandestinely stipulates with the lessor payment to himself of a lakh of rupees. A holds the lakh for the benefit of the partnership. Merely saying 'breach of trust' will not cover the points covered in the illustration I have given. There may be a trust orally. Breach of that oral promise may also constitute breach of trust. The other obligations connected with the nature of a trust are all clearly defined in Chapter IX of the Indian Trust Act. I think it would be better if those obligations as defined in the Trust Act are also included rather than simply restricting the definition to merely saying 'breach of trust' and leaving it to the Court to decide. I think it would be better to be clear in our definitions so that the Courts may decide the issue whether there has been a breach of trust or any obligation in the nature of trust as defined in the Indian Trust Act, 1882. That is why I request that my amendment may be accepted."

24th February 1955]

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“ I have no objection so far as the merits of the present amendment go. But considering the situation in which we are placed now, we have to draw the line somewhere. Therefore I am sorry I cannot accept the amendment.”

DEPUTY CHAIRMAN :—“ The hon. Member is not withdrawing his amendment? ”

SRI K. BALASUBRAMANYA AYYAR :—“ I am not withdrawing my amendment, Sir.”

5-40
p.m.

DEPUTY CHAIRMAN :—“ The question is—

‘ In sub-clause (b) (iii) after the words “ breach of trust ” add the following :—

“ or any obligation in the nature of trust as defined in Chapter (9) of the Indian Trust Act of 1882 ” ”

The amendment was lost.

* SRI K. BALASUBRAMANYA AYYAR :—“ Sir, I move the amendment standing in my name, namely,—

‘ In sub-clause (b) (vi) after the words “ Chit Fund Scheme ” add the words “ or any nidhis or mutual benefit societies ”.’

Sir, the Joint Select Committee has accepted the principle that any liability arising from any Chit Fund should be exempted. Here in the definition they have put in a clause saying ‘ (vi) any liability incurred or arising under any Chit Fund Scheme ’. At the Joint Select Committee stage some of us said that there were benefit societies in which people took shares and paid money. A number of people join together and the loan is paid only to the shareholders. The whole society is run by the shareholders. If there is any default by any shareholder, he will have to pay some penal interest. Time is of the essence in the whole transaction, and that is why Chit Fund is exempted here. In the same way, I want the benefit societies also should be exempted. Sri Purushothama Mudaliar will bear me out when I say that the Hon. the Revenue Minister said that he would look into this matter then. We must exempt these benefit societies also. Therefore it is I make bold to bring in this amendment that benefit societies, which are run on the same lines as the Chit Funds, should be exempted.”

The amendment was duly seconded.

DEPUTY CHAIRMAN :—“ Amendment moved—

‘ In sub-clause (b) (vi) after the words “ Chit Fund Scheme ” add the words “ or any nidhis or mutual benefit societies ”.’ ”

* SRI T. PURUSHOTHAM :—“ Sir, we have put in the Bill the words ‘ any liability incurred or arising under any Chit Fund

[Sri T. Purushotham] [24th February 1955]

Scheme'. Nidhis or mutual benefit societies will get the exemption as they come under Chit Fund Scheme. So, there is no need for a formal amendment of this kind. They would naturally get the exemption if they are similarly placed as chit funds and I believe there is no need for the amendment."

SRI T. M. NARAYANASWAMI PILLAI:—"Sir, mutual benefit societies can be included. There is no harm in including them."

THE HON. SRI M. A. MANICKAVELU NAICKER:—"Sir, it is true that this was raised at the Joint Select Committee stage, and it is for that reason, as my hon. Friend pointed out, that the words 'Chit Fund Scheme' are put in so that any nidhi working on the basis of a Chit Fund Scheme by monthly contribution may also come under it. Such nidhis as work on the Chit Fund model will also have the benefit."

SRI K. BALASUBRAMANYA AYYAR:—"Sir, I hope and trust that this assurance will be carried out in the rules to be framed."

SRI T. PURUSHOTHAM:—"Sir, in view of the assurance given, the hon. Member may withdraw his amendment."

* SRI K. BALASUBRAMANYA AYYAR:—"Sir, I have a little doubt. I think, Sir, if the principle holds good, they must accept the principle and not the details. I have to point out that benefit societies and nidhis would not be exactly like Chit Funds. They may be different. But if the principle is accepted and you are satisfied, I have no objection."

The amendment was by leave of the House withdrawn.

Clause 2 was put and carried.

Clause 3 was put and carried.

Clause 4.

DEPUTY CHAIRMAN:—"Motion moved—

'That Clause 4 do stand part of the Bill.'"

SRI K. BALASUBRAMANYA AYYAR:—"Sir, I move the amendment standing in my name, namely,—

'Add the following as new sub-clause (8):—

"Where the debtor fails to make any one of the payments specified in sub-section (1) on the due date or on the extended date under section 5, sub-section (4), the whole amount of the balance of the debt or decree shall become due irrespective of the instalments fixed in the decree."

Sir, the general principle is that where an instalment decree is given, and if the debtor does not fulfil his obligation to pay money at the particular time, even though the decree-holder is not allowed

24th February 1955] [Sri K. Balasubramanya Ayyar]

to execute the decree for the whole amount, still the whole amount becomes due. That is the principle that has to be accepted. In clause 5, sub-clause (4), power is given to him to apply for extension of the instalment. Even after granting extension of time, the debtor does not pay. What is to be done? (Interruption.) Therefore it is, Sir, I have moved my amendment."

Dr. V. K. John seconded the amendment.

* SRI T. M. NARAYANASWAMI PILLAI :—" Sir, I oppose this amendment for this reason. Generally it is a well-known principle that where payment by instalments is provided for, the provision that the whole amount should become payable in default of payment of one instalment is in the nature of a penalty. Let us be true to our aims. We are trying to provide relief to small debtors. What is the use of saying that if a debtor commits default, the whole amount should become due from him? The principle behind this amendment is understandable. Rightly or wrongly, he would be liable to pay only that instalment. I strongly oppose this amendment by which an attempt is made to make the whole amount become payable even if there is default in payment of only one instalment."

* DR. V. K. JOHN :—" Sir, I feel there is some misunderstanding. When there is a provision that a debtor must pay only in instalments, necessarily there must be a provision for default that the whole amount will become due. Otherwise what is the meaning in making provision for payment by instalments? This can be provided for in the rules. Otherwise nobody will pay the instalments. The creditor will again have to go to the Court and ask for the recovery of the instalment. The rules must say that if the debtor does not pay one instalment on the appointed date, the whole amount will become due. This has got to be provided for in payment of only one instalment."

* SRI K. BHASHYAM :—" Sir, I think that if this amendment is accepted it will frustrate the whole Bill. In all contracts, it is said that if a person does not pay an instalment due, the whole amount shall become due and be payable. That is the usual thing put in. That is the debtor is to keep to the promise of the bargain. The principle of the Bill is to pay the debt in instalments. If a person does not pay his instalment, we proceed on the presumption that he is not able to pay in time, and that he wants further time. We presume that he is not able to pay and not that he is not willing to pay. If we proceed on the basis that a person will not pay, the amendment may be all right. But we do not proceed on that basis. We proceed on the assumption that when a debtor is not able to pay, he deserves some consideration in the matter of repayment. That is why I oppose the amendment, Sir."

5-50
p.m.

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, I oppose the amendment, as it goes against the scheme

[Sri M. A. Manickavelu Naicker] [24th February 1955]

of our arrangement. Even if one instalment is not paid, the next instalment will become due in due course. If we accept the amendment, it will go against our objective."

* SRI K. BALASUBRAMANYA AYYAR :—" Sir, instalments are provided for by the Legislature so that it may be easy for the debtor to repay the debt. That is the object of giving the instalments. If a debtor wants to frustrate this object, he could easily do it. The Legislature should not allow a loophole which will help him in the matter. I know some of them deliberately default in paying their instalments. I also know that when a particular instalment is not paid, an instalment decree can be obtained. Even here some people will default. Then the whole thing will be set at naught. I am not saying that we are legislating for such bad people. Anyway, we have to guard against such people. It is only for that purpose, I have moved my amendment, Sir."

The amendment was put and lost.

Clause 4 was put and carried.

Clauses 5 and 6 were put and carried.

Clause 7.

SRI K. BALASUBRAMANYA AYYAR :—" Sir, I move the following amendment :—

'Add the following as new clause 7-A :—

"Where in execution of a decree against an agriculturist debtor, his property has been sold, every other creditor of his shall on application within thirty days of the sale be entitled to rateable distribution of the amount realized by such sale less the cost of execution and expenses of the sale in respect of the amount of debt remaining due to him, whether it has matured into a decree or otherwise notwithstanding any other law to the contrary."

Sir, this new clause is necessary to obviate certain difficulties which may arise in actual practice. The Act does not apply in the case of debts after 1953. According to the present provisions in the Bill, when in execution of a decree against an agriculturist debtor, his property is sold, all the creditors will not get the dues due to them from the agriculturist debtor concerned. Only those creditors coming under the Act will have a remedy when the property is sold. The other creditors will have no remedy at all. That is why I have said in my amendment that every other creditor of the agriculturist debtor shall on application within thirty days of the sale be entitled to rateable distribution of the amount realized by the sale of the property. This is the general principle which I want to be incorporated in this legislation. We should not allow one creditor to walk away with the money leaving the other credi-

24th February 1955] [Sri K. Balasubramanya Ayyar]

tors without any remedy whatsoever. It is only to enable the other creditors also to have some remedy in the matter I have moved my amendment and I request that it may be accepted."

DR. V. K. JOHN :—" I second the amendment, Sir."

* SRI K. BHASHYAM :—" Sir, this is one of the defects in the Bill which has to be taken note of, and rectified by the Government as early as possible. I do not want to stand in the way of this Bill being passed now. I only want the Government to carefully look into the matter. When a property of an agriculturist debtor is sold, we must allow for rateable distribution. It is a valuable right which a person has got and it is not proper to deprive him of it. I only request the Government to take note of this fact and if necessary, to bring an amending Bill at an early date, as it is only a matter between creditor and creditor."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, this point was taken note of by us and we thought that it was not possible to accept the suggestion. When the whole property is brought to sale, there is already a remedy under the Insolvency Act and that could be taken advantage of for rateable distribution."

* SRI K. BALASUBRAMANYA AYYAR :—" Sir, I am also aware of the provision in the Insolvency Act. But, there is a difficulty in applying it to the present case. Under the Insolvency Act, somebody should put in an application. That is the worst remedy to be thought of. When the whole property is sold, I know the matter will come under the Provincial Insolvency Act. But, unfortunately advantage cannot be taken of that Act. Because, when a particular creditor walks away with all the money, what can the other creditors do? That is why I say that it is a clumsy remedy. Let the Hon. Minister kindly consult the Legal Advisers to the Government. As this is a matter between creditor and creditor and has nothing to do with the agriculturist debtor, I hope that something will be done in the matter."

DEPUTY CHAIRMAN :—" The question is—

Add the following as new clause 7-A :—

" Where in execution of a decree against an agriculturist debtor, his property has been sold, every other creditor of his shall on application within thirty days of the sale be entitled to rateable distribution of the amount realized by such sale less the cost of execution and expenses of the sale in respect of the amount of debt remaining due to him, whether it has matured into a decree or otherwise notwithstanding any other law to the contrary." " 6 p.m.

The amendment was lost.

Clause 7 was put and carried.

[24th February 1955]

Clause 8.

SRI K. BALASUBRAMANYA AYYAR :—“ Sir, I move—

‘ Add the following as sub-clause (b) and renumber the existing clause as sub-clause (a) :—

“ (b) In respect of any debt or decree to which this Act will not be applicable and which would have become barred but for the application of Act V of 1954, to such debt or decree, the time during which such suit or application was barred by Act V of 1954 and the period of one month after the 1st March 1955 shall be excluded from the period of limitation applicable to such suit or application.”

Sir, under the Bill all claims which are barred by the Moratorium Act and also the Extension Act are sought to be barred on 1st March 1955 also. As things stand at present, two things are likely to happen. The creditor must file a suit on 1st March 1955. One difficulty is it is difficult on the part of the creditor to file a suit immediately because he does not know—or will not know until 28th February 1955—whether the Bill that we are discussing will become law on 1st March 1955 or not.”

THE HON. SRI M. BHAKTAVATSALAM :—“ He does not know either that the Moratorium Act is to be extended. Normally, the existing Act expires at the end of the month and, therefore, he should be prepared for filing the suit.”

* SRI K. BALASUBRAMANYA AYYAR :—“ I am only pointing out the difficulties of the creditor. If the creditor has not yet known it is to be extended and has to file a suit on 1st March 1955, there will be some difficulty. He must get legal advice and do ever so many other things. Then, there is another difficulty. Suppose the creditor does not want to get the money at once but is prepared to take it in instalments. Have you given him any time to think about it? Very probably, as there are instalment decrees proposed under the present Act, every creditor might have some idea of getting the money in instalments and would like to stipulate the number of such instalments. You do not give him facilities to do so. Court-fee has to be paid here. If both the parties agree, of course, it is a different matter. Sir, even in the case of compromise decrees, I know of cases wherein money intended to be paid on the spot by the debtor to the creditor was not so paid. I know of a particular case at Chidambaram where, when the Moratorium Act was about to be passed into law, a man who had in his pocket a sum of Rs. 3,000 for payment to his creditor quietly evaded paying it and went away. This is no exaggeration. Such things do happen. So, I would request the Government to accept my amendment so that an opportunity may be given to the generous creditors to help the debtors by not filing the suit and making the debtors liable to court-fee.”

24th February 1955]

DR. V. K. JOHN :—“ I second the amendment, although the Government have already given deep consideration to this question.”

* SRI K. BHASHYAM :—“ Sir, this is another matter on which the Government must bestow their attention. ‘Debt’ as mentioned in the present Bill is circumscribed in its definition unlike in the Moratorium Act. Persons will be prevented from filing suits on 1st March 1955 and this provision will be in operation for four months in respect of debts covered by the Bill. But you do not fix any such time-limit in respect of debts which are outside the scope of the Bill. In such cases it will be a great hardship on creditors. There will be cases involving thousands of rupees which may not be of the type mentioned in the Bill. In all these cases, the question of limitation will arise. Some provision must be made in respect of these cases and I hope that the Government will bring in an amending Bill soon to set right matters.”

DR. V. K. JOHN :—“ They will not do it.”

THE HON. SRI M. A. MANICKAVELU NAICKER :—“ Sir, I am glad that the Deputy Leader of the Opposition is answering for the Government. I beg to submit, Sir, that people were and are quite aware of the provisions of the Act. They have had ample time for doing what is necessary. They must be wary. It is just like this. When holidays interfere with limitation of appeals, lawyers will be very particular to see that the appeals are not time-barred and will file appeals on the re-opening day. That is why there is a heavy rush of suits in courts after the holidays. The man who has got money must be careful and it is only the moneyed man who is always careful.”

DEPUTY CHAIRMAN :—“ The question is—

‘Add the following as sub-clause (b) and renumber the existing clause as sub-clause (a) :—

“(b) in respect of any debt or decree to which this Act will not be applicable and which would have become barred but for the application of Act V of 1954, to such debt or decree the time during which such suit or application was barred by Act V of 1954 and the period of one month after the 1st March 1955 shall be excluded from the period of limitation applicable to such suit or application.”

The amendment was lost.

Clause 8 was put and carried.

Clauses 9 and 10 were put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

[24th February 1955]

THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, I move—

' That the Madras Indebted Agriculturists (Repayment of Debts) Bill, 1955 (L.A. Bill No. 2 of 1955), as passed by the Assembly be passed.'

In doing so, I thank the hon. Members for their great co-operation and the very useful suggestions that they have made. These will be duly considered and everything practicable will be done."

* DR. V. K. JOHN :—" May I express my sincere hope that the Government will before long introduce a comprehensive Bill for the liquidation of agricultural indebtedness and that this Bill when passed into law will not dislocate the economy of the countryside to any serious extent? "

DEPUTY CHAIRMAN :—" The question is—

' That the Madras Indebted Agriculturists (Repayment of Debts) Bill, 1955 (L.A. Bill No. 2 of 1955), as passed by the Assembly be passed.' "

The motion was put and carried.

DEPUTY CHAIRMAN :—" I adjourn the House to meet at 3 p.m. tomorrow."

The House then adjourned.

வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS